

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

EDWIN R. CASTRO-SANDOVAL,)	
)	
Movant,)	
)	
vs.)	Case No. 08-00010-CV-W-FJG-P
)	Crim. No. 07-00072-01-CR-W-FJG
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER DENYING MOVANT A CERTIFICATE OF APPEALABILITY

On April 30, 2008, this Court entered an Order (Doc. No. 27) denying movant's motion to vacate, correct, or set aside his sentence pursuant to 28 U.S.C. § 2255 (Doc. No. 24). On August 1, 2008, movant filed a notice of appeal, which this Court will construe as a Motion for Certificate of Appealability (Doc. No. 10). Movant also requested in his motion that he be allowed to proceed in forma pauperis on Appeal.

A certificate of appealability will be issued only if the applicant has made a substantial showing of the denial of a constitutional right and has indicated which specific issue or issues satisfy the showing required. 28 U.S.C. § 2253(c)(2) & (3). Additionally, "the petitioner 'must demonstrate that the issues are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further.'" Randolf v. Kemna, 276 F.3d 401, 403 n.1 (8th Cir. 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 n.1 (1983))(alteration in original). Although this may be referred to as a "modest standard," id. (citing Charles v. Hickman, 228 F.3d 981, 982 n.1 (9th Cir. 2000)), movant has failed to

meet this burden.

Accordingly, it is hereby ORDERED that movant's Petition for a Certificate of Appealability (Doc. No. 10) is **DENIED**. Additionally, because movant's Certificate of Appealability is denied, movant's request to proceed IFP on appeal is **DENIED AS MOOT**.

IT IS SO ORDERED.

Date: 8/18/08
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge